IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.539 OF 2006
IN
SECOND APPEAL NO.130 OF 2006

Salebai T. Bohari & Anr. ...Applicants
Vs.
Zilla Parishad, Solapur & Ors. ...Respondents

Mr G.S. Godbole for the Applicants.
Mr Nitin Jamdar for the Respondent No.1.
Mr Y.M. Nakhawa, A.G.P. for the Respondent No.3.

CORAM : A. S. OKA, J.
DATE : MAY 03, 2006.

P.C.:

1. Rule. The Respondents waive service. Taken up for hearing forthwith. Shri Jamdar appearing for the Respondent No.1- Zilla Parishad has invited my attention to the findings recorded by the courts below. He submitted that the findings indicate that members of the public are using a portion of the property of the Applicants as a road for last several years. He submitted that if injunction is granted against the Respondent No.1 Zilla Parishad, the members of the public who have been using the road will be affected.

2. Second Appeal has been admitted for final hearing. The courts below held that the Applicants

are the owners of the property in dispute. Prima facie there is nothing on record to show that the property in dispute is vesting in the Respondent No.1 or that the same has been acquired for the benefit of the Respondent No.1. Therefore, injunction will have to be granted in favour of the Applicants against the Respondents herein. It is obvious that this injunction will not affect any other person who is not a party to the Appeal and the grant of injunction will not preclude the Respondents from adopting appropriate proceedings for taking order disputed property. Hence, following order is passed on Civil Application:

(i) There will be interim relief in terms of prayer clause (a). It is clarified that it will be open for the Respondents to adopt appropriate proceedings in accordance with law for taking over possession of the disputed portion of the property. It is also made clear that the order of injunction will not affect any person who is not a party to the Civil Application and the Second Appeal.

(ii) Liberty to the Respondent No.1 to apply for

modification of this order in the event the Respondent No.1 adopts procedure contemplated by law.

(iii) No orders as to costs.

JUDGE